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Contemporary Legislation And Halal

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ABSTRACT

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Halal certification of products and services is regulated differently in the modern legislation of certain countries. In the European Union, halal is not regulated at all, while the Gulf countries (Arab countries) have a regulated and standardized halal certification system, just like some other Asian countries such as Malaysia, Indonesia, and Thailand.

According to the latest estimates, there are currently around 45 million Muslims in Europe and many companies see a chance for additional earnings by focusing on this target group. In practice, companies sometimes encounter legal restrictions that create problems for them to harmonize their production with the halal standard. Some members of the European Union do not accept halal slaughter. These legal regulations present a problem for slaughterhouses that want to harmonize their slaughtering with Islamic regulations. An example is Poland, whose ruling structures try to prevent ritual slaughter (halal and kosher) by law, even though the Polish state is the largest producer of halal meat in Europe, bringing them huge profits. The laws referred to by EU members are the Food Act, the Animal Welfare Act, the Consumer Protection Act, and others.

On the other side, we also have countries that respect Islamic rules and are also members of The Standards and Metrology Institute for Islamic Countries (SMIIC which deals with the development and issuance of halal standards from various fields).

It is necessary to regulate halal and halal standardization through positive laws of the European Union and other non-Muslim countries in a way to ensure the rights of Muslims to consume food in accordance with their religion.

Halal certification bodies must have a strategy to incorporate halal into the existing legislation of the mentioned countries.

Introduction

Halal¹ is a word originating from the Arabic language and means permitted, permissible, and pleasant, according to Islamic regulations. What is forbidden according to Islamic law is called haram (forbidden) and meshbuh (questionable and as such forbidden until it is proven to be permissible (pure) – halal). All three terms in local and international correspondence are most often used in their original form. In addition to the basic meanings (permitted - forbidden), the terms halal and haram have taken on additional meanings in colloquial use. Thus, the word halal is very often used with the meanings: to forgive, to give something without compensation, to earn fairly, and the like.

At the end of the 20th century and the beginning of the 21st century, the word halal is often associated with the term "halal certification of products and/or services". With modern globalization, the development of modern technology, and the relatively fast transportation of products from one part of the world to the other, the range of products has become wide and diverse, but the quality itself and some other aspects have brought certain questions, especially due to the use of various additives and the increasingly common hidden ingredients in products (which are often not even declared on the packaging). It has become more and more difficult for final consumers to be sure of what they eat, first of all from a hygienic and health aspect, and for a certain group of people also regarding the obligation to fulfill their religious obligations (halal, kosher, fasting food, etc.). For this reason, at the end of the last century, the idea of halal products to being halal certified, and the complete

system being standardized, was developed. It was necessary to adopt new norms, and above all to develop and adopt halal standards. The first phase was the creation of halal standards for products and services, which defined the requirements that the organization/company should fulfill for its products/services to be labeled halal. Based on the stated need for halal certification, a large number of halal certification bodies were launched and appeared on the market (which was still not legally regulated in the area of halal). Some of those halal certification bodies were not sufficiently competent and trained to deal with halal certification, primarily due to insufficient quality and competent human resources, and therefore the certificates they issued in some cases were not a real guarantee that the product bearing the label halal is for real halal. This led to the next phase, namely the development and adoption of standards that contain the requirements that each halal certification body must meet to be trusted and recognized. This second phase inevitably led to the process of recognition and accreditation of halal certification bodies. The third phase was created as a consequence of the second phase, and it is about full or partial regulation of the halal market in some countries. In the continuation of the work, we will deal with individual markets and compare how the process of halal certification is legally regulated.

Halal certification in Islamic countries and countries with a majority Islamic population

Halal certification of products and services is regulated differently in the modern legislation of certain countries. In the

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<https://www.halal.ba/index.php/ba/faq?limit=10&start=10>

European Union, halal certification is not legally regulated, unlike the Gulf countries (Arab countries) which have a regulated and standardized halal certification system, and like some other countries in Asia such as Malaysia, Indonesia, and others.

The Kingdom of Saudi Arabia, a country in Southwest Asia, which we sometimes call the "Land of the Two Temples" because it contains the two holiest places in Islam, Mecca and Medina (in which the Kaaba and the Prophet's Mosque are located). The central institution of the country's government is the Saudi monarchy. The Holy Book of the Qur'an represents the country's constitution, and the supreme law is the Sharia (Islamic Law based on the Qur'an). In recent years, the Halal certification system has been legislated. The Saudi authorities first established a Halal Center within the Saudi Food and Drug Administration (SFDA) and then formed a system for approving foreign Halal certification bodies. This new system replaces the previous requirement for halal certification bodies to be recognized by the Muslim World League for their halal certificates to be accepted in Saudi Arabia.²

Until 2021, entry into the Saudi Arabian market required halal certification only for meat and meat products, similar to other Gulf Cooperation Council (GCC) countries. With the introduction of new legislation that regulates the area of halal, it is foreseen that from July 1, 2021, the possession of a Halal certificate will be required for most food products to enter the market of the Kingdom of Saudi Arabia, and for the following types of products (in addition to meat and meat products): milk and dairy products (e.g. cheese, yogurt, etc.), oil and fats,

confectionery (i.e. biscuits, chocolates, sweets, cakes, etc.), chilled and frozen foods (i.e. pasta, pizza, noodles, other frozen fast food, etc.), products with a long shelf life at room temperature (e.g. energy, carbonated and sports drinks, juices, sauces, nutritional supplements, baby food, canned food, etc.). Given that there was a short period between the date of adoption of the regulation and the deadline for its implementation, the SFDA updated the original regulation and defined that the implementation of the regulation should be carried out by July 1, 2022.

Malaysia, a country in Southeast Asia, also has a regulated halal certification system. Jabatan Kemajuan Islam Malaysia (JAKIM) is a government agency that oversees the entire halal certification system in Malaysia as well as halal certified products imported into Malaysia. The laws³ and regulations governing Halal certification in Malaysia are the "Food Act" of 1983 and the "Trade Descriptions Act" of 2011, which consists of the "Trade Descriptions (Definition of Halal) Order" of 2011 in which are defined terms "halal" and other terms related to halal. Offenses for deceiving or misleading halal consumers are also regulated, and penalties for misuses are determined accordingly by the "Order on Trade Descriptions (Certification and Marking of Halal)". By the same law in 2011 was established JAKIM as the competent halal authority for Malaysia, while the newly adopted Order declared self-declaration of halal as illegal. Also, the Order regulates that all products/consumables declared as halal in Malaysia must have a halal certificate and that foreign products bearing the halal mark must be certified by a halal certification body recognized by JAKIM. This act also regulates violations and

² <https://www.salaamgateway.com/story/saudi-arabias-new-regulations-will-require-halal-certificates-for-most-food-products>

³ <https://food.chemlinked.com/foodpedia/malaysian-halal-food-regulation>

penalties. In addition to the law and the aforementioned acts, two important guidelines are mandatory and issued by JAKIM. These are the "Malaysian Halal Certification Procedure Manual" a reference document for halal certification that specifies the conditions and requirements of halal certification, application procedures, certification procedure, fees, and the "Guide for the Halal System Assurance System" which defines the establishment of principles in the establishment and maintenance of the system assurance of halal certification. Malaysia is a leader in the field of halal certification and has a well-organized system in which regulations related to halal are regulated by Law.

The Republic of Turkey also has its own accreditation body. Halal Accreditation Agency (HAK) is an authorized halal accreditation body from Turkey. Taking into account the above-mentioned countries, the Republic of Turkey adopted an amendment to Law No. 7060 on November 1, 2017, which made halal accreditation mandatory for all certification bodies that perform halal certification of products and services that are placed on the market of the Republic of Turkey. The deadline for the implementation of amendments to Law No. 7060 is June 4, 2023.⁴ The goal of this law is that all certification bodies whose companies (domestic and/or foreign) market or intend to market products/services with the halal mark or halal certificate must have accreditation from the HAK, regardless of whether the certification body already has halal accreditation from another international accreditation body. The aforementioned provision brings problems to many certification bodies that already have valid accreditation with other accreditation houses.

Halal certification is also legally regulated in Indonesia. With over 261 million inhabitants, Indonesia is the 4th most populous country in the world, the most populous Austronesian nation, and the most populous Muslim-majority country. The Indonesian halal market is the largest halal market in the world as Indonesia has 180 million halal consumers. Almost 20% of the global halal market is concentrated in Indonesia.

Indonesian Government Regulation 39 of 2021 (GR 39/2021) sets requirements for companies to obtain halal certification for their products and services. According to the said law, products that enter, circulate, and trade in Indonesia must have a valid halal certificate. Under the new laws, the Indonesian government requires food and beverage companies to obtain halal certification from the BPJPH by October 2024, threatening to impose fines or recall products if they fail to meet the deadline. The plan is to gradually extend the request to other business areas. Non-halal food can still be sold in Indonesia after October 2024. But it will have to be labeled as such, meaning it will likely no longer be able to rely on the majority of consumers of halal products/services in the country. It also means that a company from abroad to export its products to the Indonesian market needs to have a valid Halal certificate from a Halal certification body recognized by the Halal Product Assurance Agency (BPJPH) of Indonesia. The Halal Product Assurance Agency, commonly known as BPJPH, was established by the Federal Government of Indonesia in 2017 to carry out operations and activities related to the enactment of Halal Product Assurance 2014 by Law #33.⁵

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https://members.wto.org/crnattachments/2022/TBT/UR/22_3291_00_e.pdf

⁵ <https://asia.nikkei.com/Business/Food-Beverage/Indonesia-s-food-companies-rush-for-halal-seal-of-approval-by-2024>

Halal in Europe

On the other hand, halal certification is not legally regulated in the European Union as in the above-mentioned countries. There is no specific law or regulation governing halal certification in the EU. There was an initiative for CEN, the European Committee for Standardization, an association that brings together the national standardization bodies of 34 European countries, to adopt a European halal standard that would be mandatory and applicable on the territory of Europe, but that project was abandoned.

According to the latest estimates, there are currently around 45 million Muslims in Europe and many companies see a chance for additional earnings by focusing on this target group. Companies from certain industries (such as the meat industry) in practice, sometimes, and in certain EU member states, encounter legal restrictions that create problems for them to harmonize their production with the halal standard. Usually, the law most often referred to by EU members when banning ritual slaughter (halal/kosher) is the Law on Animal Welfare. Council Regulation (EC) no. 1099/2009 of September 24, 2009, on the protection of animals at the time of killing states that the exception from stunning in the case of religious slaughter that takes place in slaughterhouses is approved by Directive 93/119/EC. Given that the Community provisions applicable to religious slaughter are transposed into local legislation in different ways, depending on the national context, and taking into account that national rules take into account dimensions that go beyond the purposes of Regulation (EC) no. 1099/2009, there is a possibility of exception

from the stunning of animals before slaughter, leaving, however, a certain level of subsidiarity for each member state. The Regulation respects the freedom of religion and the right to manifest one's religion or belief in worship, teaching, practice, and observance, as carefully preserved in Article 10 of the Charter of Fundamental Rights of the European Union.⁶

However, under the possibility of deviating from this directive by the provisions of Article 26, paragraph 2, point (c) of Regulation no. 1099/2009, some member states do not allow religious slaughter without stunning. Thus, Austria, Belgium, Estonia, Finland, Greece, the Kingdom of Denmark, the Republic of Slovenia, and the Kingdom of Sweden do not allow the slaughter of animals without prior stunning. Such legal regulations present a problem for slaughterhouses that want to harmonize their slaughtering with Islamic regulations and halal standards. One of the examples in the EU is Poland, whose ruling structures are trying to prevent ritual slaughter (halal and kosher) by law, even though Poland is one of the largest producers of halal meat in Europe and brings them huge profits. According to a study by the Polish Development Fund, Poland exported meat worth slightly less than 5 billion euros in 2020, which is the fourth largest of all EU member states. Almost one-third of those exports were kosher and halal products. The ruling Law and Justice party (PiS) is trying to ban ritual halal and kosher slaughter in Poland under the pretext of the Animal Welfare Act. The strong pressures of the meat industry lobby and the large protests of farmers have prevented them from adopting such a law for the territory of Poland for the time being.

⁶ <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32009R1099&from=DE>

Referring to Article 26, paragraph 2, point (c) of Regulation no. 1099/2009 the authorities in the Belgian province of Flanders adopted a directive obliging slaughterhouses to use stunning before slaughtering animals. The Court of Justice of the European Union has ruled that member states can ban the practice of slaughter according to religious rules, also known as "ritual slaughter", to promote the welfare of animals, without violating the rights of religious groups.⁷ This decision was made after Jewish and Muslim associations wanted to legally challenge the ban on halal and kosher slaughter in the Belgian province of Flanders. The court decided that the EU regulation on slaughter does not prevent member states from imposing themselves the obligation to stun animals before they are killed.⁸ This also applies to the case of slaughter prescribed by religious rules, provided it does not conflict with the EU Charter of Fundamental Human Rights which includes the right to manifest religious practices and rituals, but the judgment indicated that it must be harmonized with the ability to reversibly stun in order to the EU goal of general interest, i.e. animal welfare, has been achieved.

In accordance with the examples mentioned above, it seems that there is discrimination against Muslims in the European Union and that they are trying to deny them a basic human right, which is the free expression of religious obligations related to halal nutrition. It says in the Qur'anic verse:⁹ *"He only forbids you: carrion and blood and pork, and what is slaughtered in someone else's name and not in Allah's name. And for the one who is forced, but not out of desire, just enough to satisfy his hunger, there is no sin*

for him. - Allah is indeed forgiving and merciful!". Interpreting the quoted verse, we conclude that the meat of dead animals is the first to be prohibited in the Muslim diet. Some methods of stunning, which are mandatory in most EU member states, can lead to the death of the animal before the act of slaughter itself, and therefore the meat of such an animal is forbidden for Muslims to eat. An example is the gas stunning of poultry before the actual act of slaughter, which according to the majority of Islamic scholars is contrary to Islamic rules because it does not meet the requirement that the animal must be alive at the time of slaughter. In the act of slaughtering large cattle, the procedure of "stunning" with a penetrating swordman's gun is common in practice, which is also prohibited according to Islamic scholars, since such a stunning device with a captive bolt delivers a fatal blow to the animal's head and has sufficient force to pierce its skull and enters the brain.

The regulation of halal certification in the EU is a complex issue and involves several factors, including religious, cultural, and economic factors. Although halal certification is currently not legally regulated in the EU, there have been discussions and proposals to establish a single standard for halal certification throughout the EU to best ensure the protection of halal consumers and promote the development of the halal industry.

The American continent

When it comes to the placement of halal products on the market of the United States of America (USA), the placement and

⁷ <https://www.agroklub.com/stocarstvo/klanje-povijerskim-pravilima-drzave-ce-moci-same-zabraniti-odlucio-sud-eu/65183/>

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https://curia.europa.eu/juris/document/document_prin

t.jsf;jsessionid=6F40812FF517FA40DE52EF3869D123CB?docid=197314&text=&doclang=HR&pageIndex=0&cid=11830653

⁹ Kur'an, El-Maide 3.

production of halal food/services are not legally regulated. Numerous companies in the USA decide to implement the requirements of the halal standard in order to satisfy the needs of a large number of Muslim consumers of halal products. The US government has not passed laws or regulations in the field of halal certification, but in the huge market relies on halal certification bodies such as the Islamic Food and Nutrition Council of America (IFANCA), Islamic Services of America (ISA), Halal Food Council USA and others that halal certify a large number of halal products/services. Halal products must carry the halal label and the products meet the regulations set by the U.S. Food and Drug Administration (FDA) for food safety and labeling (U.S. Food and Drug Administration - FDA).

In South American countries, such as Argentina and Brazil, there are also halal certification bodies that provide halal certification services. Today, just like in the United States of America, there is no law that regulates the field of halal certification, but countries rely on individual halal certification bodies. According to Reuters data, Brazil is the world's largest exporter of halal beef and chicken meat to OIC countries. This export-oriented approach has led to a strong halal certification system in the country. According to government data compiled by industry groups Abiec and ABPA, Brazil's halal beef and chicken exports totalled US\$4.7 billion in 2020. That amount has increased to \$8.92 billion in 2021.¹⁰

The situation on the American continent can be compared with Europe in two contexts. The first is that halal certification is not legally regulated and that government regulations for food or service must be

followed. Another aspect is that on the American continent, the countries we mentioned previously do not have legal regulations for halal food, compared to Europe, where it is stated that there are certain restrictions in the field of halal slaughter (e.g. mandatory stunning).

OIC/SMIIC and its role in the regulation of the halal market

The Organization of Islamic Cooperation (OIC) and the Standards and Metrology Institute for Islamic Countries (SMIIC) have established several initiatives and programs aimed at regulating the halal industry and promoting the development of halal standards. The main purpose and initiative of OIC and SMIIC is to promote standardization and harmonization of halal standards in OIC member countries. This includes the development of common standards for halal products, services and processes, as well as the accreditation of halal certification bodies. By standardizing halal standards in OIC member countries, OIC and SMIIC aim to create a more efficient and transparent halal industry that promotes consumer confidence. Standardization also helps ensure that halal products and services meet unique halal requirements across countries and regions.

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<https://www.reuters.com/markets/commodities/brazil>

[-eyes-117-trillion-halal-food-market-keen-boost-farm-trade-with-islamic-2021-12-06/](#)

Conclusion

From the above examples, we can conclude that the halal certification system at the world level is legally regulated differently. We can take examples of countries that have passed laws regulating every aspect of halal certification (regulations for certification bodies, determination of relevant halal standards for countries, regulations on labeling of products, fines for falsely declared halal products, etc.) to those countries where halal is not legally regulated at all. It would be desirable for each country to adopt a law regulating the minimum requirements in the field of halal certification and defining which standard is mandatory for certification bodies and which for companies when they intend to harmonize their products/services with Islamic regulations. This would contribute to a greater degree of trust in the halal product/service, as it would prevent and/or reduce the possibility of issuing halal certificates from unaccredited and insufficiently competent certification bodies that issue certificates, often solely motivated by profit, as well as preventing and putting on the market fake declared halal products, which are more and more on the market today.

In the future, the ideal scenario in the field of halal certification would be for all countries to start applying the standards adopted by OIC/SMIIC, and for accreditation bodies to recognize each other. This would lead to having unified standards for the accreditation of halal certification bodies and thereby prevent the growing multiple halal accreditations of certification bodies, caused by the enactment of laws to regulate the halal market of countries such as the U.A.E., Saudi Arabia, Turkey, and others, where each of them requires accreditation with its competent accreditation body (EIAC, HAK, SFDA and others), which in turn leads to an

increase in the prices of halal certification services by certification bodies and higher expenses for companies and, ultimately, a more expensive halal product for consumers. The aforementioned procedures for regulating the market of Muslim countries (multiple accreditation) are not in accordance with the mission of halal certification to provide consumers of halal products with a safe and high-quality halal product/service, without increasing the price of the same.

References

1. Agro klub – Poljoprivredni portal (2020). <https://www.agroklub.com/stocarstvo/klanje-po-vjerskim-pravilima-drzave-ce-moci-same-zabraniti-odlucio-sud-eu/65183/> (Pristupljeno: 03.09.2023.).
2. Sud Europske Unije (2017). https://curia.europa.eu/juris/document/document_print.jsf?jsessionid=6F40812FF517FA40DE52EF3869D123CB?docid=197314&tex=&doclang=HR&pageIndex=0&cid=11830653 (Pristupljeno: 08.09.2023.).
3. Kur'an, El-Maide 3.
4. Reuters (2020). <https://www.reuters.com/markets/commodities/brazil-eyes-117-trillion-halal-food-market-keen-boost-farm-trade-with-islamic-2021-12-06/> (Pristupljeno 16.09. 2023.).
5. An official website of the European Union (2009); UREDBA VIJEĆA (EZ) br. 1099/2009 od 24. rujna 2009. O zaštiti životinja u trenutku usmrćivanja; Službeni list Europske unije L 303/1; 2009.) <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32009R1099&from=DE>. (Pristupljeno 16.09.2023.).
6. The World Trade Organization (2022); https://members.wto.org/crnattachments/2022/TBT/TUR/22_3291_00_e.pdf (Pristupljeno 16.09.2023.).
7. Nikke Asia (2023); Indonesia's food companies rush for halal seal of approval by 2024.

- <https://asia.nikkei.com/Business/Food-Beverage/Indonesia-s-food-companies-rush-for-halal-seal-of-approval-by-2024>
(Pristupljeno 16.09.2023.).
8. Sallam Gateway
<https://www.salaamgateway.com/story/saudi-arabias-new-regulations-will-require-halal-certificates-for-most-food-products>
(Pristupljeno 16.5.2023.).
9. ChemLinked
<https://food.chemlinked.com/foodpedia/malaysian-halal-food-regulation> (Pristupljeno 16.5.2023.).
10. Agencija za certificiranje halal kvalitete
<https://www.halal.ba/index.php/ba/faq?limit=10&start=10> (Pristupljeno 16.5.2023.).

Savremeno zakonodavstvo i halal

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Pregledni rad

PODACI O RADU

SAŽETAK

Ključne riječi:
halal, propisi,
zakoni, islamske
zemlje,
nemuslimanske
zemlje

Halal certificiranje proizvoda i usluga je različito regulisano u savremenom zakonodavstvu određenih zemalja. U Evropskoj Uniji halal uopće nije regulisan, dok Zaljevske zemlje (Arapske zemlje) imaju regulisan i standardizovan sistem halal certificiranja, baš kao i neke druge Azijske države poput Malezije, Indonezije, Tajlanda.

Prema najnovijim procjenama u Evropi trenutno ima oko 45 miliona muslimana i mnoge kompanije vide šansu za dodatnom zaradom fokusirajući se na tu ciljnu skupinu. Kompanije u praksi ponekad nailaze na zakonske restrikcije koji im stvaraju probleme da usklade svoju proizvodnju sa halal standardom. Pojedine članice Evropske Unije ne prihvataju halal klanje. Te zakonske regulative predstavljaju problem klaonicama koje žele uskladiti svoje klanje sa islamskim propisima. Primjer je Poljska čije vladajuće strukture zakonskim propisima nastoje onemogućiti ritualno klanje (halal i košer) iako je Poljska država najveći proizvođač halal mesa u Evropi i donosi im ogroman profit. Zakoni na koje se članice EU pozivaju su Zakon o hrani, Zakon o dobrobiti životinja, Zakon o zaštiti potrošača i drugi.

Na drugoj strani imamo i države koje poštuju islamska pravila i koje su članice OIC SMIC koji se bavi izradom i izdavanjem halal standarda iz različitih oblasti.

Potrebno je regulirati halal i halal standardizaciju kroz pozitivne zakone Evropske Unije i drugih nemuslimanskom zemalja na način da se osiguraju prava muslimana da konzumiraju ishranu u skladu sa svojom vjeroispovjesti.

Halal sertifikacijske tijela moraju imati strategiju inkorporacije halal u postojeća zakonodavstva navedenih zemalja.
